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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,689	10/13/2000	William J. Bussick	0112300/474	7705

29159 7590 03/07/2003

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EXAMINER

JONES, SCOTT E

ART UNIT PAPER NUMBER

3713

DATE MAILED: 03/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/687,689

Applicant(s)

BUSSICK ET AL.

Examiner

Scott E. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7, 9, 10, 12, 13, 15, 17, 19-23, 25-32, 34 and 35 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1-4, 7, 9, 10, 12, 13, 15, 17, 19-23, 25-32, 34 and 35 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on December 19, 2002 in which applicant amends claims 1, 17, 31, 34, 35, and 36, and responds to the claim rejections.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7, 9-10, 12-13, 15, 17, 19-23, 25-32, and 34-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Moody (U.S. 5,823,873).

Moody discloses a method of playing electronic video poker games wherein a player is dealt at least two rows of cards, one row of five cards is dealt face up (five card draw poker hand-first set) and one row of five cards is dealt face down (five card stud poker hand-predetermined symbol replacements). In one embodiment, Version #1-Super Poker I, the player can select none, one, or more of the face up cards to be held. Replacement cards for those not held are preselected using the cards from the five card stud poker hand that are vertically aligned with the cards from the five card draw poker hand(s). In another embodiment, the cards that are held are duplicated from the first row to all of the other rows. Replacement cards for the non-selected cards are then randomly dealt. The replacement cards dealt (randomly generated) into the first row for the cards not held is synonymous to replacing symbols on a slot machine reel or row by an additional spinning of the reels. Additionally, one or more cards may be used or designated as wild cards in each of the embodiments described above (Column 1, lines 30-41, Column 2, lines 17-Column 13, line 5).

Furthermore, Moody clearly discloses applicant's present invention as claimed. Moody discloses an embodiment wherein a first row of cards are dealt to a player (generating a first set of symbols) wherein the player is rewarded for each award winning symbol or symbol combination. Moody then discloses, dealing multiple other hands of cards simultaneous to the first hand of cards being dealt. The player is provided an opportunity to save or keep none, one, or more symbols from the first hand which are then held and distributed to each of the remaining multiple other hands. Those cards not selected to be held in the first hand are then randomly selected/dealt from the remaining game cards. These multiple other hands (a second or modified set of symbols) are then evaluated and the player is rewarded for each winning symbol or combination of winning symbols. Therefore, the claims read on the prior art of record, and the rejection as stated in previous Office Action, Paper No. 13 is maintained and incorporated herein.

Response to Arguments

4. Applicant's arguments filed December 19, 2002 have been fully considered but they are not persuasive.

5. Applicant disagrees with the rejection to claims 1-4, 7, 9-10, 12-13, 15, 17, 19-23, 25-32, and 34-35 are under 35 U.S.C. 102(b) as being anticipated by Moody (U.S. 5,823,873). Applicant alleges Moody fails to disclose, teach, or suggest providing "a dual evaluation of sets of symbols" which appears in each independent claim. Furthermore, applicant alleges, Moody does not disclose, "The dual evaluation of the present invention takes place once upon generating a first set of symbols, wherein the player is rewarded for each award winning symbol or symbol combination. Thereafter, at least some, but not all of the symbols of the first set are changed or modified, wherein a second evaluation takes place and the player is rewarded again for each winning symbol or combination that appears in the second or modified set of symbols even if that winning symbol or symbol combination

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was in the first set.” Applicant alleges Moody does not disclose this game. However, the examiner disagrees and believes Moody discloses applicant’s invention as claimed. Please see the rejection provided above.

6. Applicant amends claim 36, however, claim 36 was cancelled by applicant in Paper No. 12.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SEJ

sej

March 3, 2003



VALENCIA MARTIN-WALLACE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700